

GRG Automotive Warehouse, Inc. and Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Case 13-CA-32392

December 13, 1995

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS BROWNING
AND COHEN

On September 19, 1994, the National Labor Relations Board issued a Decision and Order¹ ordering the Respondent, GRG Automotive Warehouse, Inc., to, inter alia, make all required contributions to the Union Health and Welfare Fund and Pension Fund that had not been made since January 1994 in violation of Section 8(a)(5) of the National Labor Relations Act, plus any additional amounts applicable to such delinquent payments. On March 7, 1995, the United States Court of Appeals for the Seventh Circuit entered its judgment enforcing the Board's Order.

A controversy having arisen over the amounts due under the provisions of the Board's Order, on September 29, 1995, the Regional Director for Region 13 issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated October 25, 1995, the counsel for the General Counsel advised the Respondent that no answer to the compliance specification had been received and that unless an appropriate answer was filed by November 4, 1995, summary judgment would be sought. The Respondent filed no answer.

On November 13, 1995, the General Counsel filed with the Board a Motion to Transfer Case to the Board and Motion for Summary Judgment, with exhibits attached. On November 21, 1995, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

¹ 314 NLRB No. 186 (not reported in bound volumes).

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on the Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the Respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the funds are as stated in the compliance specification and we will order payment by the Respondent of those amounts to the funds, plus any additional amounts that accrue on those amounts to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, GRG Automotive Warehouse, Inc., Elgin, Illinois, its officers, agents, successors, and assigns, shall pay the following amounts to the named funds, plus any additional amounts that accrue on those amounts to the date of payment as computed in accordance with *Merryweather Optical Co.*, 240 NLRB 1213 (1979):

Health and Welfare Fund	
including penalties	\$41,140.00
Pension Fund	
including penalties	\$18,700.00
TOTAL:	\$59,840.00